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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,008	09/15/1999	LAWRENCE M. AUSUBEL	3788-7000US1	8229

7590 04/09/2004

ATTEN: STANLEY B. GREEN  
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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
3628	

3628

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/397,008	Applicant(s) AUSUBEL, LAWRENCE M.	
	Examiner Frantzy Poinvil	Art Unit 3628	<i>MW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 21 January 2004.
- 2a)  This action is FINAL.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 108-159 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 108-159 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \*    c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/4
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claims 108-133 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 108, line 8 and line 13, "a computer" renders the claim vague and indefinite as it is unclear as to whether applicant is referring to a new computer or to the computer recited on line 4.

As per claim 125, lines 8, 12 and 14, "a computer" renders the claim vague and indefinite as it is unclear as to whether applicant is referring to a new computer or to the computer recited on line 4.

Claims not directly addressed are rejected based on their dependencies.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 108-159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anthes, Gary H. Computerworld, Framingham: April 3, 1995, Vol. 29, Issue 14, page 58.

As per claims 108, 125, 134 and 151, Gary H. Anthes discloses an FCC auction system built on a client/server system. The auction system allows submission of bids on items at a plurality of times or rounds and allowing assignment of the items at different prices. Applicant is directed to the last paragraph of page 1. As in most auction systems, transmitting from a computer a signal regarding current information regarding the bidding process at the beginning of the auction would have been obvious to the skilled artisan so that bidders may view bidding information regarding item information and asking price information. Steps of receiving bids submitted by a plurality of bidders, a bid indicating at least a quantity of the items that a bidder wishes to transact and determining at a computer, for each of a plurality of bidders, a quantity of the items, if any to be assigned at the current time and in the event of such a determined quantity, assigning the determined quantity to the determined bidder is taught on page 2, first paragraph. Generating at a computer updated information regarding the bidding process is taught by Anthes as displaying new bid information and current bidding information to bidders. The step of initiating at a computer at least one additional opportunity for bidders to submit bids if any items remain unassigned is read as Additional rounds are held until no new bid is received for any license.

As per claim 109, the current information regarding the bidding process includes an indicator of a current price. Note pages 1 and 2 of the reference.

As per claim 110, Anthes discloses the assigning of the determined quantity occurs at a price related to the current price. See pages 1 and 2 of the reference.

As per claim 111, Anthes discloses the assigning of the determined quantity occurs at the current price. Note pages 1 and 2 of the reference.

As per claim 112, Anthes discloses the determining is effected for each bidder who submitted a bid at the current price. Note page 2 of reference.

As per claims 116-118, Anthes does not explicitly teach limiting a bid of a bidder by the immediately preceding bid of the bidder or by a number of objects on which a bidder is allowed to bid is not greater than the number of objects on which the bidder bids in an immediately preceding price. Such would have been obvious to one of ordinary skill in the art to include in the system of Anthes with the motivation of providing limits so that a range of profit is made.

As per claims 119-122, the updated information regarding the bidding process includes all quantities or a sum of quantities to be transacted at the current time or price is not explicitly taught by Anthes. Such would have been obvious to one of ordinary skill in the art at the time the invention was made in order to provide bidders with current information so that bidders may also provide new bids based on current information.

As per claims 123-124, since the system is a multiple round auction system, a bid indicating the quantity of objects that bidder wishes to transact at two or more prices is not explicitly taught by Anthes would have been obvious to one of ordinary skill in the art to introduce in the system of described by Anthes to facilitate a bidders' plurality of bids in a multiple round bidding system.

As per claim 126, the assigning of objects or a quantity of objects occurs at the associated price is taught on pages 1 and 2 of Anthes.

As per claims 128-130, Anthes does not explicitly disclose a minimum or a maximum price that may be submitted in a bid or a number of objects on which a bidder is allowed to bid is not greater than the number of objects on which the bidder bids in an immediately preceding round. Such would have been obvious to one of ordinary skill in the art to include in the system of Anthes with the motivation of providing limits so that a range of profit is made.

As per claims 131 and 132, Anthes discloses that a bid comprises an indication of a quantity of objects and a price associated with the quantity of objects. Note pages 1 and 2 of the reference.

As per claim 133, since the system is a multiple round auction system, a bid indicating the quantity of objects that bidder wishes to transact at two or more prices is not explicitly taught by Anthes would have been obvious to one of ordinary skill in the art to introduce in the system of described by Anthes to facilitate a bidders' plurality of bids in a multiple round bidding system.

As per claims 135-138 see the rejection of respective claims 109-112 above.

As per claims 142-150, applicant is directed to the rejection of claims 116-124 above.

As per claims 152 and 154-159, applicant is directed to the rejection of respective claims 128-133.

***Allowable Subject Matter***

3. Claims 139-141 and 153 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

4. Claims 113-115 and 127 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art taken alone or in combination failed to teach or suggest the limitations of each of claims 113-115, 127, 139, 140, 141 and 153.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP  
April 2, 2004

  
FRANTZY POINVIL  
PRIMARY EXAMINER

AU 3628